

UNITED STATES DISTRICT COURT

for the
Middle District of TennesseeIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)a white 2009 Mitsubishi Galant, bearing Tennessee
Temporary registration
TN558143, VIN: 4A3AB36F39E020963

Case No. 23-mj-2032

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A.

located in the _____ Middle _____ District of _____ Tennessee _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 1344	Bank Fraud
18 U.S.C. § 1349	Conspiracy to Defraud

The application is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.RYAN WINDHAM
Digitally signed by RYAN WINDHAM
Date: 2023.04.12 10:49:07 -05'00'

Applicant's signature

Ryan J. Windham, FBI Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
_____ telephone _____ (specify reliable electronic means).

Date: April 12, 2023

City and state: Nashville, Tennessee

Jeffery S. Frensley, United States Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN THE MATTER OF THE SEARCH
OF A WHITE 2009 MITSUBISHI
GALANT, BEARING TENNESSEE
TEMPORARY REGISTRATION
TN558143, VIN:
4A3AB36F39E020963

Case No. 23-mj-2032

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Ryan Windham, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this Affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search two automobiles identified as a white 2009 Mitsubishi Galant, bearing Tennessee Temporary registration TN558143, Vehicle Identification Number (VIN) 4A3AB36F39E020963 (hereinafter “the AUTOMOBILE ONE”); and a black 2008 Honda CR-V, bearing Tennessee Temporary registration TN558145, VIN: JHLRE48718C024645 (hereinafter “the AUTOMOBILE TWO”) further described in Attachment A, for the things described in Attachment B.

2. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI). I have been a SA with FBI since August 2022. I am presently assigned to the

Birmingham Division, Florence Resident Agency, investigating violations of federal law.

3. During my training at the FBI Academy, Quantico, Virginia, I received training in a variety of investigative and legal matters, including the topics of Fourth Amendment searches, the drafting of a search warrant affidavits, and probable cause.

4. Prior to the joining the FBI, I was a member of the Missouri State Highway Patrol (MSHP) for approximately five and a half years. While employed with the MSHP, I was a member of the Major Case Squad and completed two separate internships with the MSHP Division of Drug and Crime Control Unit. I have assisted on numerous investigations ranging from homicide, sexual assault, and drug investigations, to child exploitation investigations.

5. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This Affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

6. Based on the facts set forth in this Affidavit, there is probable cause to believe violations of 18 U.S.C. § 1344 (Bank Fraud) and 18 U.S.C. § 1349 (Conspiracy to Defraud) have been committed by unidentified subjects from March 12, 2023, through March 25, 2023. There is also probable cause to believe that

evidence and instrumentalities of the crimes will be found in AUTOMOBILE ONE and AUTOMOBILE TWO.

PROPERTY TO BE SEARCHED

7. This Affidavit is submitted in support of an application for a warrant to search two automobiles:

- a. A white 2009 Mitsubishi Galant, bearing Tennessee Temporary registration TN558143, Vehicle Identification Number (VIN) 4A3AB36F39E020963, currently located at the Franklin Police Department impound lot.
- b. A black 2008 Honda CR-V, bearing Tennessee Temporary registration TN558145, VIN: JHLRE48718C024645, currently located at the Franklin Police Department impound lot.

PROBABLE CAUSE

8. On March 25, 2023, Agents of the FBI Birmingham Division were notified and opened an investigation after Listerhill Credit Union (LCU) employees reported that hundreds of customers had unauthorized withdrawals made from their accounts at drive-through Automatic Teller Machines (ATMs) on March 25, 2023. LCU estimated the loss at approximately \$1,756,991.

9. After reviewing security footage, LCU employees discovered that on March 12, 2023, around 8:57 a.m., a card skimming device was attached to one of its ATMs located at 301 West College Street, Florence, Alabama.

10. According to LCU's records, unauthorized withdrawals were made from at least seven LCU ATM locations on March 25, 2023. The subjects made multiple transactions at each ATM location. According to LCU, which is still reviewing records, the pattern of the scheme occurred at the following times and locations, all on March 25, 2023:

- i. 22223 US-72, Athens, Alabama, from 6:28 a.m. (CST) to 9:20 a.m. (CST). Two hundred forty-three (243) unauthorized transfers occurred during this period. The first unauthorized transaction occurred at 6:28 a.m. (CST) and the last unauthorized transaction occurred at 9:20 a.m. (CST).
- ii. 17051 US-72, Rogersville, Alabama, from 8:34 a.m. (CST) to 1:14 p.m. (CST). Forty-two (42) unauthorized transfers occurred during this period. The first unauthorized transaction occurred at 8:34 a.m. (CST) and the last unauthorized transaction occurred at 1:14 p.m. (CST).
- iii. 300 US-72, Killen, Alabama, from 7:25 a.m. (CST) to 1:43 p.m. (CST). One hundred thirty (130) unauthorized transfers occurred during this period. The first unauthorized transaction occurred at 7:25 a.m. (CST) and the last unauthorized transaction occurred at 1:43 p.m. (CST).
- iv. 2995 Hough Road, Florence, Alabama, from 7:42 a.m. (CST) to 1:08 p.m. (CST). One hundred thirty-five (135) unauthorized transfers occurred during this period. The first unauthorized transaction occurred at 7:42 a.m. (CST) and the last unauthorized transaction occurred at 1:08 p.m. (CST).
- v. 301 West College St., Florence Alabama, from 8:28 a.m. (CST) to 2:03 a.m. (CST). Forty-five (45) unauthorized

transfers occurred during this period. The first unauthorized transaction occurred at 8:28 a.m. (CST) and the last unauthorized transaction occurred at 2:03 p.m. (CST).

- vi. 3701 Cloverdale Road, Florence, Alabama, from 8:19 a.m. (CST) to 1:01 p.m. (CST). One hundred eleven (111) unauthorized transfers occurred during this period. The first unauthorized transaction occurred at 8:19 a.m. (CST) and the last unauthorized transaction occurred at 1:01 p.m. (CST).
- vii. 1812 Woodward Ave, Muscle Shoals, Alabama, from 9:00 a.m. (CST) to 2:53 p.m. (CST). One hundred five (105) unauthorized transfers occurred during this period. The first unauthorized transaction occurred at 9:00 a.m. (CST) and the last unauthorized transaction occurred at 2:53 p.m. (CST).

11. The FBI has reviewed surveillance footage relating to some of the transactions. The FBI has observed subjects with cellphones in their vehicles during some of the transactions. Subjects were observed with cellphones at multiple locations where the fraud occurred.

12. Review of the security footage from the ATMs for these fraudulent transactions depicted the subjects conducting the transactions while wearing surgical face masks. The footage also showed the subjects using six separate vehicles:

- i. a Blue Ford Escape, bearing Virginia license plate TST-9376;
- ii. a Blue Honda Odyssey, bearing Virginia license plate TST-9524;
- iii. a White Toyota Sienna, bearing a “Bob Smith Toyota” license plate frame and an unknown tag number (the tag was obscured with a dark tinted plate cover);

- iv. a White Mitsubishi Galant, bearing temporary Tennessee license plate TN558143 and a “Ted Russell Nissan” dealership decal on its rear bumper (AUTOMOBILE ONE);
- v. a Black Honda CR-V, bearing temporary Tennessee license plate TN558145 – (AUTOMOBILE TWO); and
- vi. a Silver Chevrolet Equinox, bearing Tennessee license plate BNT 6501.

13. During an interview with the FBI on March 27, 2023, representatives of Ted Russell Nissan said that they had recently sold a White Mitsubishi Galant through an automobile auction affiliate, Music City Auto Auction (MCAA), in Nashville, Tennessee. MCAA representatives confirmed this information with the FBI on March 27, 2023, and reported that a vehicle matching that description was sold on behalf of Ted Russell Nissan in February 2023 to Daniel’s Autos LLC (DA), an automobile dealership located in Madison, Alabama.

14. Representatives of DA were interviewed by the FBI on March 27, 2023. During this interview, DA representatives recalled selling multiple vehicles to a single group of buyers. The vehicles sold to this group included the Mitsubishi Galant (AUTOMOBILE ONE), a Black Honda CR-V (AUTOMOBILE TWO), and a Silver Chevrolet Equinox. Each of the vehicles sold matched descriptions of vehicles used by the unknown subjects on March 25, 2023. The vehicles were purchased with cash and were left in DA’s parking lot until the morning of Friday, March 24, 2023.

15. LCU security camera footage depicted AUTOMOBILE ONE's driver having a distinct tattoo on his right arm. DA representatives identified the buyer of the vehicles as having the same tattoo on his right arm.

16. On April 6, 2023, at approximately 7:00 p.m., FBI SA Daniel Misenhimer was contacted by a representative of DA who advised that AUTOMOBILE ONE had been located in a McDonald's parking lot at 1003 Village Plains Blvd., Franklin, Tennessee, 37064. When SA Misenhimer questioned the representative from DA, he stated that AUTOMOTIBLE ONE had been sitting in the McDonald's parking for approximately ten days. The representative of DA stated a McDonald's employee approached AUTOMOBILE ONE to try to find out who the registered owner was. The McDonald's employee then opened the passenger side door, opened the passenger side glove box compartment, and located a bill of sale from DA. The McDonald's employee contacted the DA representative and asked if they would like AUTOMOBILE ONE back. The DA representative then contacted SA Misenhimer about the location of AUTOMOBILE ONE.

17. On April 6, 2023, at approximately 7:46 p.m., your Affiant contacted Franklin, Tennessee Police Department Detective Clayton Cates, and advised him of the location of AUTOMOBILE ONE. Your Affiant also advised him of the other vehicles involved in the ATM theft. Detective Cates relayed the location of the AUTOMOBILE ONE to additional officers working in the area. The additional

officers located AUTOMOBILE ONE in the McDonald's parking lot, and they also located AUTOMOBILE TWO in the Panda Express parking lot, address of 2430 Goose Creek Bypass, Franklin, Tennessee, 37064.

18. Detective Cates advised that both vehicles were located and seized by the Franklin Police Department. Advantage Towing, located at 164 Old Carters Creek Pike, Franklin, Tennessee, arrived on scene and took possession of AUTOMOBILE ONE and AUTOMOBILE TWO. Franklin Police Department Detective Chad Pace followed AUTOMOBILE ONE and AUTOMOBILE TWO to the Franklin Police Department impound lot for safekeeping.

CONCLUSION

19. Based on the foregoing, I request that the Court issue the proposed search warrant. Because AUTOMOBILE ONE and AUTOMOBILE TWO are both in law enforcement custody, I submit that good cause exists for this warrant to be executed at any time of day or night. Based on my training and experience, I believe that a search of AUTOMOBILE ONE and AUTOMOBILE TWO will yield evidence pertaining to violations of 18 U.S.C. § 1344 (Bank Fraud)¹ and 18 U.S.C. § 1349 (Conspiracy to Defraud). Persons who commit crimes such as those described herein may store, house, and keep evidence and instrumentalities of the

¹ LCU is a credit union whose accounts are insured by the National Credit Union Share Insurance Fund. Given that, LCU is a "financial institution" within the meaning of 18 U.S.C. § 20.

crimes in their vehicle. Based on my training and experience, I also believe the following may be located in AUTOMOBILE ONE and AUTOMOBILE TWO: documents, receipts, and records pertaining to items purchased in furtherance of the crime; documents, receipts, and records pertaining to account information such as a bill of sale, bank accounts and cellular plans; electronic devices, such as cellular telephones, tablets, digital cameras, and GPS units. Based on my training and experience, your Affiant also reasonably believes the following may be located in or on AUTOMOBILE ONE and AUTOMOBILE TWO: DNA and/or fingerprints. All of the above constitute evidence and/or instrumentalities of the crime and may lead to additional investigative leads.

20. Therefore, based on the foregoing, probable cause exists to believe that evidence and instrumentalities of the crimes described in this affidavit will be found AUTOMOBILE ONE and AUTOMOBILE TWO.

Respectfully submitted,

RYAN WINDHAM

Digitally signed by RYAN
WINDHAM
Date: 2023.04.12 10:47:29 -05'00'

Ryan J. Windham, Special Agent
Federal Bureau of Investigation

Subscribed and sworn to this 12th day of April, 2023.

ATTACHMENT A

Description of Property to be Searched

A white 2009 Mitsubishi Galant, bearing Tennessee Temporary registration TN558143, VIN: 4A3AB36F39E020963, currently in the custody of the Franklin Police Department.

ATTACHMENT B

Description of Items to be Seized

Records, items, or instrumentalities pertaining to violations of 18 U.S.C.

§ 1344 (Bank Fraud) and 18 U.S.C. § 1349 (Conspiracy to Defraud), including:

- a. Records, items, or information relating to a conspiracy to commit the above-referenced violations including, bill of sale, receipts of items purchased before or after the ATM Theft.
- b. Records, items, or information relating to the identity or location of the subjects, conspirators, or associates.
- c. Any indica of contact with subjects, conspirators, or associates involved in any of the above-referenced criminal violations, including address books, personal correspondence, and any other record of such communications/interactions.
- d. Any books, records, receipts, maps, ledgers, and other papers relating to the planning or carrying out of the above-referenced criminal violations.
- e. Any tools, devices, or instrumentalities that could be used for recording, hacking, or breaking into any ATM.
- f. Any cellular telephone or electronic device of unknown brand, to include charger and the data contained therein; any additional cellular phone, that can be reasonably believed, or determined, to belong to the subjects, to include its charger and the data contained therein.
- g. Any DNA evidence or fingerprints located on the outside or inside of the AUTOMOBILES and/or DNA or fingerprints located on items or devices located inside the AUTOMOBILES.